



**UNIVERSITY OF CALIFORNIA
LAWRENCE LIVERMORE NATIONAL LABORATORY**

**GENERAL PROVISIONS FOR STANDARD RESEARCH SUBCONTRACTS
(Educational Institutions & Nonprofit Organizations)**

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CLAUSE 1 - TYPE OF SUBCONTRACT; RETENTION

- A. The Subcontract is a cost reimbursement no fee subcontract under the University's Prime Contract No. W-7405-ENG-48 with the U.S. Government (hereinafter called "Government") represented by the Department of Energy National Nuclear Security Administration (hereinafter called "DOE/NNSA") for the management and operation of the Lawrence Livermore National Laboratory (hereinafter called "LLNL") and the performance of certain research and development work. The University shall not pay the Subcontractor a fee for the performance of the Subcontract.
- B. The University may withhold payment of one percent of the allowable cost until a reserve is set aside in an amount that the University considers necessary to protect the University's interest. This reserve shall not exceed 1 percent of the total not-to-exceed cost amount identified in the Subcontract or \$10,000, whichever is less.

CLAUSE 2 - RELEASE OF INFORMATION

- A. The Subcontractor shall closely coordinate with the University's Technical Representative regarding any proposed scientific, technical or professional publication related to the results of the work performed or any data developed under the Subcontract. The Subcontractor shall provide University the opportunity to review any proposed manuscripts describing, in whole or in part, the results of the work performed or any data developed under the Subcontract at least thirty (30) days prior to their submission for publication. A response shall be provided to the Subcontractor within thirty (30) days; otherwise, the Subcontractor may proceed with submission for publication. Any comments and concerns of the University's Technical Representative's regarding the proposed manuscripts shall be resolved prior to publication. Four reprints of all resulting publications shall be furnished to the University's Technical Representative.
- B. The Subcontractor shall coordinate any planned news release, advertising, or other such releases of information concerning this Subcontract or the undertaking with the University's Procurement Representative prior to release. The Subcontractor may acknowledge the University, the LLNL, and Government sponsorship of the work as appropriate, provided the University's Procurement Representative is provided written notice thereof.

CLAUSE 3 - RESPONSIBILITY FOR TECHNOLOGY EXPORT CONTROL

The parties understand that materials and information resulting from the performance of this Subcontract may be subject to export control laws and that each party is responsible for its own compliance with such laws.

CLAUSE 4 - ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES

- A. The Subcontractor shall utilize environmentally preferable products and services, i.e., products and services that have a lesser or reduced effect on human health and the environment, including those with "recovered material," as defined in 48 CFR 2.101 and 11.301, to the maximum extent possible without conflicting with the technical requirements of the Subcontract or jeopardizing the intended end use of the items or services to be furnished under this Subcontract.
- B. To the extent available, the minimum content standard for high speed copier paper, offset paper forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock used in performing this Subcontract shall be no less than 30 percent post-consumer material.

- C. The Subcontractor shall notify the University Procurement Representative in writing if an “EPA-designated item,” as defined in 48 CFR 23.402, used in performing this Subcontract does not contain at least the percentage of recovered material required by any applicable specification of this Subcontract. Such notice shall include a detailed written justification for such failure, on the basis that the item is not available competitively within a reasonable time frame, does not meet appropriate performance standards, or is only available at an unreasonable price.

CLAUSE 5 - QUALITY OF MATERIALS AND SUPPLIES

- A. Any materials or supplies furnished or used by the Subcontractor shall as a minimum: (1) conform to the requirements of this Subcontract and be as represented; (2) be new and not be of such age or so deteriorated as to impair their usefulness or safety; and (3) not contain any counterfeit/suspect items. The furnishing of reconditioned materials or supplies must be specified in the Subcontract or approved by the University Procurement Representative.
- B. The University will not accept any work involving the furnishing or use of materials or supplies, found by the University to not meet the requirements of paragraph A, above; or to constitute suspect/counterfeit items, notwithstanding any inspection or acceptance of delivery by the University, unless such condition is specifically approved in writing by the University Procurement Representative. The Subcontractor shall promptly replace such items at its expense with conforming items.
- C. The University will impound any suspect/counterfeit items furnished or used under this Subcontract and may provide such items to the appropriate authorities for investigation. The University reserves the right to withhold payment for the suspect/counterfeit items pending the results of any such investigation.
- D. A suspect item is any material, part, or component that visual inspection, testing, or other information indicates may not conform to established Government or industry-accepted specifications or national consensus standards. A counterfeit item is a suspect item that is a copy or substitute made without legal right or authority or whose material, performance, or characteristics are knowingly misrepresented by the Subcontract, supplier, distributor, or manufacturer. Types of known suspect/counterfeit items include, but are not limited to: fasteners, circuit breakers, valves, piping components, electrical devices, plate, bar, shapes, and channel members. Such items may be falsely labeled as a different class of part, or be used or refurbished parts that are falsely represented as new parts.

CLAUSE 6 - FORCED, CONVICT, AND INDENTURED LABOR

- A. By signing or accepting this Subcontract, the Subcontractor hereby represents that no equipment, materials, or supplies furnished to the University pursuant to this Subcontract will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.
- B. Any subcontractor contracting with the University who knew or should have known that the equipment, materials, or supplies furnished to the University were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract or subcontract pursuant to the above, may have any or all of the following sanctions imposed: (1) the contract or subcontract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the University; or (2) the subcontractor may be removed from consideration for University contracts or subcontracts for at least one year.

CLAUSE 7 - NOTICES

- A. The Subcontractor shall immediately notify the University's Procurement Representative in writing of (1) any action, including any proceeding before an administrative agency, filed against the Subcontractor arising out of the performance of the Subcontract; and (2) any claim against the Subcontractor, the cost and expense of which is allowable under the terms of the Subcontract.
- B. If, at any time during the performance of the Subcontract, the Subcontractor becomes aware of any circumstances whatsoever which may jeopardize its fulfillment of the agreed performance of all or any portion of the Subcontract, it shall immediately notify the University's Procurement Representative in writing of such circumstances, and the Subcontractor shall take whatever action is necessary to cure such defect within the shortest possible time.

CLAUSE 8 - ASSIGNMENTS

The Subcontract may be assigned by the University to the Government or its designee(s). Except as to assignment of payment due hereunder, the Subcontractor shall have no right to assign or mortgage this Subcontract any part of it without the prior written approval of the University's Procurement Representative.

CLAUSE 9 - DISPUTES

- A. Informal Resolution.

1. The parties shall attempt to resolve any dispute in good faith, by direct, informal negotiations. All negotiations shall be confidential. Pending resolution of the dispute, the Subcontractor shall proceed diligently with the performance of this Subcontract, in accordance with its terms and conditions.
2. The parties, upon mutual agreement, may seek the assistance of a neutral third party at any time, but they must seek such assistance no later than 120 days after the date of the University's receipt of a claim. The requirement to seek the assistance of a neutral third party may be waived or modified only with the consent of all parties. The parties may request the assistance of an established Ombuds Program, where available, or hire a mutually agreeable mediator, or ask the DOE/NNSA Office of Dispute Resolution to assist them in selecting a mutually agreeable mediator. The cost of mediation shall be shared equally by both parties. If requested by both parties, the neutral third party may offer a non-binding opinion as to a possible settlement. All discussions with the neutral third party shall be confidential.
3. In the event the parties are unable to resolve the dispute by using a neutral third party or waive the requirement to seek such assistance, the University will issue a written decision on the claim.

B. Formal Resolution.

1. If a dispute has not been resolved by informal resolution, it may be submitted to binding arbitration upon agreement of both parties, by and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA). If arbitration is agreed to by both parties, such decision is irrevocable and the outcome of the arbitration shall be binding on all parties.
2. Each party to the arbitration shall pay its pro rata share of the arbitration fees, not including counsel fees or witness fees or other expenses incurred by the party for its own benefit.
3. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction.

C. Litigation. If arbitration is declined for such disputes, the parties may pursue litigation in any court of competent jurisdiction.

CLAUSE 10 - CAS LIABILITY

(Applicable to Subcontracts exceeding \$500,000)

Reference is made to the *COST ACCOUNTING STANDARDS* clause of these GENERAL PROVISIONS. Notwithstanding the provisions of that clause, or of any other provision of the Subcontract, the Subcontractor shall be liable to the U.S. Government for any increased costs, or interest thereon, resulting from any failure of the Subcontractor, with respect to activities carried on at the site of the work, or of a subcontractor, to comply with applicable cost accounting standards or to follow any practices disclosed pursuant to the requirements of such clause.

CLAUSE 11 - CLAUSES INCORPORATED BY REFERENCE

The FAR and DEAR clauses listed below are incorporated by reference as a part of these GENERAL PROVISIONS with the same force and effect as if they were set forth herein in full text, and shall apply as prescribed below. The referenced FAR and DEAR clauses are respectively located in Title 48, Chapters 1 and 9 of the Code of Federal Regulations. The clause text may be accessed at the following web sites: FAR-<http://www.arnet.gov/far/>; DEAR-<http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/Acquisition+Regulation>.

As used in the clauses, the term "contract" shall mean this Subcontract; the term "Contractor" shall mean the Subcontractor; the term "subcontractor" shall mean the Subcontractor's subcontractor, and the terms "Government" and "Contracting Officer" shall mean the University, except in FAR clauses 52.227-1 and Alternate I, 52.227-2, and 52.227-14, and DEAR clauses 952.227-11, 970.5232-3, and 970.5245-1, in which clauses "Government" shall mean the U. S. Government and "Contracting Officer" shall mean the DOE/NNSA Contracting Officer for Prime Contract W-7405-ENG-48 with the University. As used in DEAR clauses 952.204-72, 952.227-9, and 970.5232-3, the term "DOE" shall mean DOE/NNSA or the University.

The modifications of these clause terms are intended to appropriately identify the parties and establish their contractual and administrative reporting relationship, and shall not apply to the extent they would affect the U.S. Government's rights. The Subcontractor shall include the listed clauses in its subcontracts at any tier, to the extent applicable.

APPLICABLE TO ALL SUBCONTRACTS:

FAR 52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
DEAR 952.203-70	WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (Dec 2000) Applies if the Subcontract involves any work at a University controlled site
DEAR 952.204-71	SENSITIVE FOREIGN NATIONS CONTROLS (OCT 1997) Applies if the Subcontract is for unclassified research involving nuclear technology

DEAR 952.204-72	DISCLOSURE OF INFORMATION (APR 1994) Applies if the Subcontract is for unclassified research involving nuclear technology
FAR 52.216-7	ALLOWABLE COST AND PAYMENT (DEC 2002), substituting FAR Subpart 31.3 in Paragraph (a) for FAR Subpart 31.2
FAR 52.216-15	PREDETERMINED INDIRECT COSTS RATES (APR 1998), if the Subcontractor is an educational institution
FAR 52.222-21	PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
FAR 52.222-26	EQUAL OPPORTUNITY (APR 2002) (NOTE: Download the EEO Poster at: http://www.dol.gov/esa/ ; select "Posters" then "Equal Employment Opportunity Act")
FAR 52.225-1	BUY AMERICAN ACT-SUPPLIES (JUNE 2003))
FAR 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (OCT 2003)
FAR 52.227-1	AUTHORIZATION AND CONSENT (JUL 1995), with Alternate I (APR 1984)
DEAR 952.227-9	REFUND OF ROYALTIES (FEB 1995), if "royalties" are paid by a subcontractor at any tier
DEAR 952.227-11	PATENT RIGHTS - RETENTION BY THE CONTRACTOR (SHORT FORM) (FEB 1995)
FAR 52.227-14	RIGHTS IN DATA-GENERAL (JUN 1987), with Alternates II, III, & V and Paragraphs (a) & (d)(3) per DEAR 927.409 (DEC 2000) (See also the <i>LIMITED RIGHTS DATA DISCLOSURE PURPOSES</i> clause, below)
FAR 52.227-16	ADDITIONAL DATA REQUIREMENTS (JUN 1987)
FAR 52.227-23	RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987), if the Subcontract is based upon a technical proposal.
FAR 52.232-20	LIMITATION OF COST (APR 1984), if the Subcontract is fully funded
FAR 52.232-22	LIMITATION OF FUNDS (APR 1984), if the Subcontract is incrementally funded
FAR 52.242-15	STOP-WORK ORDER (AUG 1989), with Alternate I (APR 1984)
FAR 52.243-2	CHANGES - COST REIMBURSEMENT (AUG 1987), with Alternate V (APR 1984)
FAR 52.244-2	SUBCONTRACTS (AUG 1998). Paragraph (e) insert: "Any subcontract or purchase order for work at a University-controlled site or other than "commercial items" (as defined by FAR 2.101) exceeding \$100,000."
FAR 52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS (APR 2003)
DEAR 970.5245-1	PROPERTY (DEC 2000)
FAR 52.246-9	INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM) (APR 1984)
DEAR 952.247-70	FOREIGN TRAVEL (DEC 2000)
FAR 52.249-5	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS) (SEP 1996)

APPLICABLE IF THE SUBCONTRACT IS FOR \$10,000 OR MORE:

FAR 52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)
FAR 52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUNE 1998)
FAR 52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$25,000:

DEAR 970.5223-4	WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2000), if the PO involves any of the hazardous activities stipulated in 10 CFR 707.2
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APPLICABLE IF THE SUBCONTRACT EXCEEDS \$100,000:

FAR 52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)
FAR 52.203-7	ANTI-KICKBACK PROCEDURES (JUL 1995), excluding Paragraph (c)(1)
FAR 52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUNE 2003)

FAR 52.219-6 & ALT. 1	NOTICE OF TOTAL SMALL-BUSINESS SET-ASIDE (JUN 2003), with ALTERNATE I (OCT 1995), if the Subcontract results from a small business set-aside
FAR 52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000)
FAR 52.219-14	LIMITATIONS ON SUBCONTRACTING (DEC 1996), if the Subcontract results from a Small Business Set-Aside
FAR 52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)
DEAR 970.5232-3	ACCOUNTS, RECORDS, AND INSPECTION (DEC 2000), excluding Paragraph (h)
FAR 52.247-63	PREFERENCE FOR U. S.-FLAG AIR CARRIERS (APR 2003), if the Subcontract involves international air transportation

APPLICABLE IF THE SUBCONTRACT EXCEEDS \$500,000:

FAR 52.215-10	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)
FAR 52.215-11	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA-MODIFICATIONS (OCT 1997)
FAR 52.215-12	SUBCONTRACTOR COST OR PRICING DATA (OCT 1997)
FAR 52.215-13	SUBCONTRACTOR COST OR PRICING DATA-MODIFICATIONS (OCT 1997)
FAR 52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002), unless the Subcontractor is a small business or there are no subcontracting possibilities.
DEAR 970.5226-2	WORKFORCE RESTRUCTURING UNDER SECTION 3161 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993 (DEC 2000)
DEAR 952.226-74	DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997), if the Subcontract is not for "commercial items"
FAR 52.230-2	COST ACCOUNTING STANDARDS (APR 1998), unless the Subcontractor is an Educational Institution or certifies that it is eligible for & elects to use modified CAS-coverage
FAR 52.230-3	DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998), unless the Subcontractor is an Educational Institution or certifies that it is eligible for & elects to use modified CAS-coverage
FAR 52.230-5	COST ACCOUNTING STANDARDS – EDUCATIONAL INSTITUTION (APR 1998), if the Subcontractor is an Educational Institution
FAR 52.230-6	ADMINISTRATION OF COST ACCOUNTING STANDARDS (Nov 1999), unless the Subcontractor is an Educational Institution

APPLICABLE IF THE SUBCONTRACT INVOLVES CLASSIFIED INFORMATION OR UNRESTRICTED ACCESS TO "LIMITED" OR "EXCLUSION" SECURITY AREAS:

DEAR 970.5204-1	COUNTERINTELLIGENCE (DEC 2000)
DEAR 952-204-2	SECURITY (SEP 1997)
DEAR 952.204-70	CLASSIFICATION / DECLASSIFICATION (MAY 2002)
DEAR 952.204-73	FACILITY CLEARANCE (MAY 2002)
FAR 52.227-10	FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (APR 1984)
DEAR 970.5223-4	WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2000), if the Subcontract exceeds \$25,000

CLAUSE 12 - LIMITED RIGHTS DATA DISCLOSURE PURPOSES

Generally, delivery of Limited Rights Data or Restricted Computer Software should not be necessary. If any Limited Rights Data will be furnished or delivered by the Subcontractor or a lower-tier subcontractor pursuant to Sub-paragraph (g)(2) of the FAR 52.227-14 *RIGHT IN DATA – GENERAL* clause of the GENERAL PROVISIONS, the University may disclose the data for the following purposes, which disclosure purposes shall be inserted in the Limited Rights Notice to be affixed to the data:

- A. This "Limited Rights Data" may be disclosed for evaluation purposes under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed;

- B. This "Limited Rights Data" may be disclosed to other contractors participating in the Government's program of which this Subcontract is a part for information or use in connection with the work performed under their contracts and under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed; and
- C. This "Limited Rights Data" may be used by the Government or others on its behalf for emergency repair or overhaul work under the restriction that the "Limited Rights Data" be retained in confidence and not be further disclosed.

CLAUSE 13 - GOVERNING LAW AND VENUE

This Subcontract shall be interpreted and governed in accordance with all applicable federal and state laws and all applicable federal rules and regulations.

CLAUSE 14 - ORDER OF PRECEDENCE

Any inconsistencies in the documents comprising the Subcontract shall be resolved by giving precedence in the following order: (a) the Subcontract document; (b) these GENERAL PROVISIONS; (c) other referenced documents, exhibits, and attachments; and (d) any referenced specification or statement of work.

(END OF GENERAL PROVISIONS)